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April 17, 1997

Peter N. Fowler
Attorney-Advisor
Office of Legislative and
International Affairs
U.S. Patent and Trademark Office
Box 4
Washington, DC 20231

Dear Mr. Fowler:

On behalf of the Research Division of the American Historical Association, I am writing to comment on the Conference on Fair Use (CONFU) proposed guidelines. The American Historical Association has been following with great interest the work of CONFU and appreciates their attempts to tackle some very difficult issues.

For the following reasons, the American Historical Association has decided not to endorse any of the three proposed guidelines. First, in light of how quickly the technology is changing in the area of scholarly use of the electronic environment, we contend that the situation is too fluid to try to write guidelines. The conditions that kindled the perceived need for these guidelines may well be outdated in a very short time. Second, the very detailed nature of these guidelines tends to make them more restrictive than we believe that they need to be. In setting precise amounts, these amounts become the maximum rather than the minimum use. Thus, the tone of the guidelines is one that would narrow and limit use. Third, the emergence of increased telecommunication capabilities for both research and teaching is resulting in an impressive array of new experiments. Our fear is that these guidelines will cut off some very exciting experimentation.

While we believe that the deliberations of CONFU have been very valuable, we are not prepared at this time to endorse the proposed guidelines.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stanley N. Katz" with a stylized flourish at the end.

Stanley N. Katz
(Vice-President,
Research Division)

snk:sd